

# MINUTES OF THE SOLID WASTE BOARD MEETING

Indiana Government Center South  
402 West Washington Street  
Conference Center Room A  
Indianapolis, Indiana  
May 21, 2002

The meeting was called to order by Chairperson Jeffry Carter at 1:33 p.m. Those present for all or part of the meeting were:

Mr. Michael Carnahan  
Mr. Marlin Chambers  
Ms. Linda Cosgrove  
Mr. Rick Dyar  
Mr. Charles Himes  
Mayor William Graham  
Mr. Jeff Langbehn  
Ms. Frona Powell  
Mr. Howard Cundiff (Proxy, Indiana State Department of Health)  
Mr. Thomas Hohman (Proxy, Department of Natural Resources)  
Ms. Michaela Kendall (Proxy, Lieutenant Governor's Office)  
Ms. Deborah Albright, Board Counsel

A quorum was present.

In addition, the following IDEM staff members were present for all or part of the meeting:

Mr. Bruce Palin, Deputy Assistant Commissioner, Office of Land Quality  
Mr. Michael Dalton, Section Chief, Rules, Planning and Outreach  
Ms. Lynn West, Operations and Information Branch, Rules, Planning and Outreach  
Ms. Pam Koons, Operations and Information Branch, Rules, Planning and Outreach  
Mr. Louis McFadden, Operations and Information Branch, Rules, Planning and Outreach  
Ms. Bonnie Nash, Operations and Information Branch, Rules, Planning and Outreach  
Ms. Marjorie Samuel, Operations and Information Branch, Rules, Planning and Outreach  
Ms. Wendy Hoffspiegel, Legislative Liaison  
Mr. Marc Hancock, Branch Chief, Office of Voluntary Compliance  
Mr. John Crawford, Acting Section Chief, Industrial Waste Group #2, Compliance and Response Branch  
Ms. Tracy Barnes, Technical Compliance Section, Compliance and Response Branch  
Mr. Dave Berrey, Technical Compliance Section, Compliance and Response Branch

1. Chairperson Carter opened the meeting at 1:33 p.m., and asked for corrections or changes to the minutes of the February 19, 2002 Solid Waste Management Board meeting. There being none, Mr. Howard Cundiff moved for approval of the minutes, and Mr. Charles Himes seconded. The motion passed unanimously. APPROVAL OF  
MINUTES

2. Chairperson Carter then asked ASSISTANT

Mr. Bruce Palin to address the Board. Mr. Palin said that he would first ask Ms. Lynn West

## COMMISSIONER'S REPORT

to address the Board and then said that Wendy Hoffspiegel was present to give an update on legislation. He said that he would also address the board regarding background information on future rulemakings.

Ms. West distributed the monthly Rulemaking Projects Calendar and mentioned that there were no new rules added to the list. She also said that the Hazardous Waste Staging Rule hearing originally noticed for this meeting was postponed and when the hearing is rescheduled a notice will appear in the Indiana Register. Ms. West said that there would be a meeting with interested parties of this rule to discuss concerns. Ms. West gave a brief report on a meeting that was held with interested parties on the Underground Storage Tank Rules. She said that the rule changes were not considered controversial and that there was a good exchange of ideas. Ms. West also went over the arrangements for the October 15 Board meeting. She told the board that they would be touring an organic composting facility in Bloomington and the Solid Waste District's new hazardous materials facility. She said that Mark Davis, the district director, will also give a presentation about the districts. Ms. West distributed a list of hotels and restaurants in the Bloomington area for those who may want to come to Bloomington the night before. Ms. West then asked Ms. Hoffspiegel to address the Board regarding the legislative session for 2002.

Ms. Hoffspiegel said that there was nothing passed that directly impacted the Solid Waste Management Board and no new rulemaking requirements, authorities or restrictions. She then directed the Board's attention to the handout, "IDEM 2002 Legislative Summary". She highlighted items she thought might be of interest to the Board.

HEA 1001	Antiterrorism Measures
SEA 399	Adjustment of Census Numbers In Statutes
SEA 283	Withdrawals and Removals from Joint Solid Waste Management Districts for the Solid Waste Management
HEA 1196	Solid Waste Management District Property Tax Rates

She also mentioned some bills that were relevant to brownfields, recycling and solid waste management districts never passed. Of particular interest was House Bill 1004, regarding property taxes and also the state budget, which included language that would increase the IDEM permit and annual operation fees by thirty (30) percent. She said that the bill was amended numerous times and eventually the language was amended to the point that IDEM no longer wanted it in that format. At the Special Session, House Bill 1001-SS contained that same undesirable fee language and IDEM is requesting its removal.

Mr. Palin then discussed the handout, "Future Rule Makings - Solid Waste Management Board". Mr. Palin explained how the two rulemakings originally began as one but finally broke it into two separate rulemakings because each one was fairly substantial and would be easier to manage separately. He discussed the Change Rule for Landfills first, explaining how it began and then evolved to include storm water requirements from Rule 5 and Rule 6 of 327 IAC 15 the Office of Water Quality. The idea was proposed to exempt landfills from Rule

5 and Rule 6 permits under water and add relevant requirements to the Solid Waste Rules, thereby eliminating the redundancy between the two offices and provide a “one-stop shopping approach” to storm water rules and the permitting process. The addition of storm water rules is a somewhat complicated procedure because the Office of Water Quality is revising their rules and these revisions have to be carefully tracked, as well as any input from EPA. He said that the thirty (30) day second notice of comment period will be published in the July 1, 2002 Indiana Register and that the preliminary adoption hearing will hopefully occur at the August 20, 2002 Solid Waste Management Board meeting. Meetings are continuing with the Office of Water Quality staff, landfill operators and EPA to make sure that the rule will be able to meet all expectations as desired. For a verbatim account of Mr. Palin’s remarks, please see pages 13 through 22 of the official transcript of this meeting.

Mr. Himes asked about the transition from water rules to the solid waste rules and Mr. Palin replied that some transition language would probably be written to allow for time frames and modifications if necessary. Discussion on these issues continued. Please see pages 22 through 26 of the official transcript for a verbatim account of this discussion.

Mr. Palin then reviewed the upcoming Special Waste Change Rule. He said that this particular rulemaking action was being written to implement statutory changes to remove the special waste program from the solid waste rules while maintaining the integrity of regulations regarding language regarding alternative daily covers, testing requirements for restricted waste sites and waste characterization. A meeting has also been arranged for the discussion of a draft of this rule. This will occur May 28, 2002, 2:00 p.m., Indiana Government Center North, 13<sup>th</sup> Floor, Conference Room OLC-1. A thirty (30) day second notice comment period is expected to be published in the July 1, 2002 Indiana Register. Please see pages 26 through 30 of the official transcript of this meeting for a verbatim account of Mr. Palin’s remarks.

Chairperson Carter then announced that the hearing for consideration of preliminary adoption of the amendments to rules at 329 IAC 3.1-4-1, 329 IAC 3.1-4-18.5, 329 IAC 3.1-4-23.5, 329 IAC 3.1-6-2, 329 IAC 3.1-9-4, 329 IAC 3.1-10-4, 329 IAC 3.1-13-2, and 329 IAC 3.1-13-21, hereafter known as the Hazardous Waste Staging Rule, has been postponed. When the date is rescheduled, it will appear in the Change of Notice Section of the Indiana Register.

3. Chairperson Carter said that nonrule policy documents would be presented next. The first nonrule policy document (NPD) was “IDEM’s Confidentiality Policy for its Compliance and Technical Assistance Program.” Chairperson Carter said that the NPD is available for public inspection, comment and copying in the file room of the Department of Environmental Management, 12<sup>th</sup> floor, Indiana Government Center North, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m. The NPD was presented by Marc Hancock, Branch Chief, Office of Voluntary Compliance, Compliance and Technical Assistance Program. Mr. Hancock explained the purpose of the Compliance and Technical Assistance (CTAP), the reasons for confidentiality and the conditions under which confidentiality may be waived. The NPD under consideration was first developed in 1996 and was now revised. The first change refines the waiver process, now requiring a written waiver rather than oral. The second change clarifies how to determine clear and immediate danger to human health and the environment.

The final change limits access to the database that houses all of the assistance efforts to Indiana businesses and municipalities. The NPD notes that the database is on a secured server, and the only people who have access are CTAP staff.

Chairperson Carter said that written comments should be sent to Jim Mahern, Assistant Commissioner of the Office of Pollution Prevention and Technical Assistance, within the next thirty (30) days. While formal response will not be provided, the IDEM may change the NPD based on comments received. If that happens the NPD will again be presented to the Board and placed in the file room for comment. This NPD, "Confidentiality Policy for Its Compliance and Technical Assistance Program," will be effective thirty days from today's presentation, June 20, 2002.

The next NPD was "Waste Status of Chromated Copper Arsenic (CCA) Treated Wood." Chairperson Carter said that the NPD is available for public inspection, comment and copying in the file room of the Department of Environmental Management, 12<sup>th</sup> floor, Indiana Government Center North, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m. The NPD was presented by Tracy Barnes, Technical Compliance Section, Compliance and Response Branch. Ms. Barnes said that this NPD is also not a new document, but revisions have been made to exclude sawdust from CCA treated wood when generated by persons using the wood for its intended end use, and the second revision removes references to special waste and/or industrial waste. This NPD will also serve to notify manufacturing facilities of the regulatory status of such waste as special waste. Ms Barnes explained that the NPD removes references to special and/or industrial waste to be consistent with Public Law 218-2001 and clarifies exclusions in light of these revisions. There was discussion regarding other types of treated wood, i.e., utility poles, and railroad ties, which are addressed under a different NPD. Mr. Himes also asked about where CCA treated wood would come from and under what circumstances would it become a threat. Ms. Barnes said that there is very little sawdust generated from this material and what would constitute a threat wasn't actually covered in the NPD. Ms. Barnes speculated that potential threats would very likely be evaluated based on specific details.

Chairperson Carter said that written comments should be sent to Mary Beth Tuohy, Assistant Commissioner of the Office of Land Quality, within the next thirty (30) days. While formal response will not be provided, the IDEM may change the NPD based on comments received. If that happens the NPD will be presented to the Board and placed in the file room for comment. Chairperson Carter said that written comments should be sent to Mary Beth Tuohy, Assistant Commissioner of the Office of Land Quality, within the next thirty (30) days. While formal response will not be provided, the IDEM may change the NPD based on comments received. If that happens the NPD will again be presented to the Board and placed in the file room for comment. This NPD, "Waste Status of CCA Treated Wood," be effective thirty days from today's presentation, June 20, 2002.

The final NPD was "Equivalent Secondary Containment Devices for Hazardous Waste Tanks Containing Baghouse Dust." Chairperson Carter said that the NPD is available for public inspection, comment and copying in the file room of the Department of Environmental

Management, 12<sup>th</sup> floor, Indiana Government Center North, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m. The NPD was presented by Dave Berrey, Technical Compliance Section, Compliance and Response Branch. Mr. Berrey said that the purpose of this NPD was to approve equivalent containment devices for generator hazardous waste tanks that contain baghouse dust. Because secondary containment requirements are more oriented towards liquids, typical secondary requirements applicable to tanks are not relevant for baghouse dust or for use of the tanks as loading silos. However, releases of baghouse dust seem to be common, especially when the trucks are being loaded. However, with this NPD, the Commissioner is approving the use of equivalent devices for secondary containment for generator baghouse tanks that meet performance standards designed to prevent releases in the environment.

Chairperson Carter said that written comments should be sent to Mary Beth Tuohy, Assistant Commissioner of the Office of Land Quality, within the next thirty (30) days. While formal response will not be provided, the IDEM may change the NPD based on comments received. If that happens the NPD will be presented to the Board and placed in the file room for comment. Chairperson Carter said that written comments should be sent to Mary Beth Tuohy, Assistant Commissioner of the Office of Land Quality, within the next thirty (30) days. While formal response will not be provided, the IDEM may change the NPD based on comments received. If that happens the NPD will again be presented to the Board and placed in the file room for comment. This NPD, "Equivalent Secondary Containment Devices for Hazardous Waste Tanks Containing Baghouse Dust," will be effective thirty days from today's presentation, June 20, 2002.

At this point, Mr. Jeff Langbehn said that he was asked by Mr. Tim Boos, the current president of the Indiana Chapter of SWANA, to bring up the matter of asbestos training. Mr. Langbehn expressed a desire to see that proper asbestos handling, as it specifically occurs at a landfill, be emphasized as opposed to generic handling, i.e., removal from buildings, packaging, etc. Mr. Palin explained that the asbestos certification program is operated out the Office of Air Management. He further said that he has begun discussion with the Air Management staff regarding the possibility of taking some of their requirements and putting them into the landfill operator certification program and then exempt those certified landfill operators from the Air Management program.

4. Chairperson Carter adjourned the meeting at 2:28 p.m.

ADJOURNMENT

The next meeting will be August 20, 2001, at 1:30 p.m., in the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana 46204.

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CHAIRPERSON

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TECHNICAL SECRETARY